

REMARKS

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, claims 10 and 14 have been amended to eliminate an alleged indefiniteness therein. Claim 10 has also been amended to yet clearly describe the present invention.

Based on the foregoing amendments and the following remarks, the application is deemed to be condition for allowance, and action to that end is respectfully requested.

I. Rejection of Claims Under 35 U.S.C. § 112.

The Examiner rejected claims 10-14 under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite, pointing out specific language rendering claims 10 and 14 allegedly indefinite. Claims 10 and 14 have been amended to overcome the § 112 rejection. Accordingly, withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, of claims 10-14 is respectfully requested.

II. Rejection Over the Prior Art

The Examiner rejected claims 10-14 under 35 U.S.C. § 102(b) as being anticipated by Calabro, U.S. Patent No. 5,954,305 (Calabro). It is respectfully submitted that claims 10-14 are patentable over Calabro.

Specifically, claim 10 recites that the free ends (30.1, 30.2) of the first and second members (29.1, 29.2) are guided in elongate openings extending parallel to the profile section (system support 21). As explained in the specification (page 11, lines 5-7), with the free ends being guided in the elongate openings parallel to the system support (21), the pipe (25) need not be aligned on the coarse grid of the openings (26.2 and 26.4) on the system support. This is because in its every possible position, the U-shaped mounting element is straightly positioned relative to the system support.

In Calabro, the free end of the U-shaped member cannot be displaced parallel to the system support. In Calabro, horizontal slots replace round holes in the mounting plate (157), and these slots would extend at an angle to the system support and not parallel.

A rejection based on U.S.C. § 102 as in the present case, requires that the cited reference disclose each and every element covered by the Claim. Electro Medical Systems S.A. v. Cooper Life Sciences, 32 U.S.P.Q. 2d 1017, 1019 (Fed.

Cir. 1994); Lewmar Marine Inc. v. Barent Inc., 3 U.S.P.Q. 2d 1766, 1767-68 (Fed. Cir. 1987); Verdegaal Bros., Inc. v. Union Oil Co., 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987). The Federal Circuit has mandated that 35 U.S.C. § 102 requires no less than “complete anticipation . . . [a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, 32 U.S.P.Q. 2d at 1019; Verdegaal Bros., 2 U.S.P.Q. 2d at 1053.

In Calabro, not all elements are arranged as in claim 10.

Since Calabro fails to disclose each and every feature of independent Claim 10, Calabro, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Calabro does not anticipate or make obvious the present invention as defined in Claim 10, and the present invention is patentable over Calabro.

Claims 11-14 depend on Claim 10 and are allowable for the same reasons Claim 10 is allowable and further because of specific features recited therein which, when taken alone and/or in combination with features recited in Claim 10 are not disclosed or suggested in the prior art.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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